EXHIBIT 1

Redacted Version of Document Sought to be Sealed

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WRITER'S EMAIL ADDRESS
josefansorge@quinnemanuel.com

April 1, 2022

HIGHLY CONFIDENTIAL - SPECIAL MASTER AND ATTORNEY'S EYES ONLY

VIA E-MAIL

Special Master Douglas Brush
(douglas.brush@accelconsulting.llc)
Accel Consulting, LLC

Timothy Schmidt
(timothy.schmidt@accelconsulting.llc)
Accel Consulting, LLC

Mark Mao
(mmao@BSFLLP.com)
Boies Schiller Flexner LLP

Re: *Brown v. Google LLC*, Case No. 5:20-cv-03664-LHK-SVK (N.D. Cal.)

Dear Special Master Brush, Mr. Schmidt, Counsel:

Google is providing along with this letter additional information for the ▮▮▮▮▮▮▮▮▮▮ and ▮▮▮▮▮▮▮▮▮▮▮▮ fields.

Below is the proto comment for the ▮▮▮▮▮▮▮▮ field:

▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮
▮▮▮▮

The proto comment for the ▮▮▮▮▮▮▮▮▮▮▮ field has been provided in Google's March 5, 2022 letter, which we reproduce below:

▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮
▮▮▮▮▮▮▮▮▮▮▮▮▮▮

Respectfully,

QUINN EMANUEL URQUHART & SULLIVAN, LLP

Josef Ansorge

EXHIBIT 2

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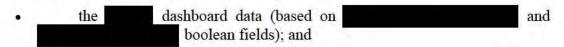| From:	owner-googleteam@lists.susmangodfrey.com on behalf of Josef Ansorge
To:	Mark C. Mao; Douglas Brush; Timothy Schmidt
Cc:	QE Brown; GOOGLETEAM@lists.susmangodfrey.com
Subject:	RE: Brown (20-3664) v. Google - Plaintiffs" Proposed Preservation Plan
Date:	Tuesday, March 15, 2022 12:56:41 PM

EXTERNAL Email

Dear Mr. Mao,

Thank you for the productive meet and confer yesterday. Below please find our written proposal / suggested framework for preservation.

15-MAR-2022 Draft Google Framework for Preservation

Google proposes to preserve a daily sample of 1,000 Display Ads events associated with 1,000 different randomly selected UIDs scoped to activity in the United States based on the Country field:

1. Event_id (information used to identify events in log entries);

2. IP address;

3. User-agent;

4. HTTP header (including x-client-data header field);

5. URL; and

6. Date and time (to the extent that is not legible from Event_id).

Instead of categorically preserving a number of different log sources, Google proposes to construct a log source for preservation that only consists of the specific fields and data to be preserved. In addition, Google proposes preserving:

- the ███ dashboard data (based on ████████ and ████████ boolean fields); and

- the Display Ads dashboard data (based on ████████ boolean field).

We are optimistic that the parties can find agreement and look forward to discussing class-wide preservation with you in more detail during today's meet and confer.

Best,

Josef Ansorge
Of Counsel,
Quinn Emanuel Urquhart & Sullivan, LLP

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From: Mark C. Mao <mmao@BSFLLP.com>
Sent: Wednesday, March 9, 2022 5:06 PM
To: Douglas Brush <douglas.brush@accelconsulting.llc>; Timothy Schmidt <timothy.schmidt@accelconsulting.llc>
Cc: QE Brown <qebrown@quinnemanuel.com>; GOOGLETEAM@lists.susmangodfrey.com
Subject: Brown (20-3664) v. Google - Plaintiffs' Proposed Preservation Plan

[EXTERNAL EMAIL from mmao@bsfllp.com]

Dear Special Master Brush,

As you have requested, Plaintiffs propose the following to try to move the ball forward on a preservation plan, consistent with the Magistrate Judge's recent orders.

Google to Preserve:

Plaintiffs propose that Google extend its default retention period for three discrete categories of logs, as well as any encryption and/or joinability keys associated with any identifiers in such logs, as follows:

1. UMA Raw Logs: Google should preserve raw UMA logs through the duration of this case. ███ ██ *See* GOOG-CABR-04801490.

2. ██ ████ Logs with the ████████████ Bit: Google should preserve all of these logs for at least 1 year longer than the default retention period. Please note that Google considered retaining ████ logs—which include substantially greater data and are costlier to preserve than ████ logs—for up to one year for its own, internal business purposes. *See* GOOG-BRWN-00845467.

3. Select Additional Logs: Google should preserve the following logs, which appear to contain either (a) the X-Client data header or (b) PPID-mapped biscotti and/or Analytics User IDs, for at least 1 year longer than the default retention period: ████████████████ ; ██

██████████ ; ███████████ ; █████████████ ; ██████████████
████████████████████████ ; ███████████████████████
████████████ ; and ████████████████ .

For sources Nos. 2-3, the proposed retention periods may be sufficient, or would provide sufficient time for the parties to agree on a more targeted preservation plan if necessary. Plaintiffs remain willing to consider any proposals by Google to narrow what is preserved to less than the full content of these logs, but Plaintiffs presently do not have sufficient information to propose such a subset without further input from Google and believe the full logs should be preserved at least long enough for the parties to confer about a more targeted preservation plan. For example, Plaintiffs may be willing to meet and confer to agree on the preservation of a smaller subset of the data, specifically – 1) identifiers, 2) IP address, 3) user-agent, 4) HTTP header, 5) URL, 6) date and time, and 7) any "incognito"-titled field (e.g., ███████████████████) or field containing Incognito-detection (e.g., ████████████████ fields).

Google to Disclose:

Plaintiffs also propose that Google disclose the names of all logs in the following categories, as well as their default retention periods. Once such a disclosure is made, Plaintiffs can consider what preservation, if any, may be necessary.

1. All source logs from which the ████████████ bit in the █████ logs described above may be inferred.

2. All logs containing any parameter or field with "Incognito" in the name, and the full name/description of the field with "Incognito" in the name for each such log. (For instance, █████ logs that contain an ████████████████ bit would be included here.)

3. All logs containing PPID-mapped biscotti and/or Analytics User IDs. Google has indicated that it does not have an "existing tool" that "provides a listing of populated fields that indicate whether a given log contains PPID or Analytics User ID."

For these three categories of logs and sources that Plaintiffs are requesting that Google disclose, Plaintiffs may again be willing to meet and confer to agree on the preservation of a smaller subset of the data, specifically – 1) identifiers, 2) IP address, 3) user-agent, 4) HTTP header, 5) URL, 6) date and time, and 7) any "incognito"-titled field (e.g., ████████████████████) or field containing Incognito-detection (e.g., ███████████████ fields). Plaintiffs respectfully submit that Google should use whatever means it has available to attempt in good faith to identify such logs; for example, by (1) asking persons likely to have such knowledge, (2) running test searches for such identifiers across a broader set of logs to identify those containing such identifiers, (3) using any tools that would identify such logs (even if such a tool would not "provide a listing of populated fields" as Google's carefully-worded statement above suggests), or (4) any other methods available to Google.

Plaintiffs and their experts remain available to discuss these issues to try to arrive at a sensible

preservation framework.

Respectfully,

Mark C. Mao
(He/him/his)
Partner

BOIES SCHILLER FLEXNER LLP

44 Montgomery Street, 41st Floor
San Francisco, CA 94104
(t) 415 293 6858
(c) 415 999 9695
mmao@bsfllp.com

To unsubscribe from the GOOGLETEAM list, click here

EXHIBIT 3

Unredacted Version of Document Sought to be Sealed

CHASOM BROWN, ET AL. vs GOOGLE, LLC, ET AL.
Hearing on 03/23/2022

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 1

 2                    UNITED STATES DISTRICT COURT

 3                  NORTHERN DISTRICT OF CALIFORNIA

 4                  CASE NO.: 4:20-03664-YGR-AVK

 5

 6   CHASOM BROWN, MARIA NGUYEN and

 7   WILLIAM BYATT, individually and on

 8   Behalf of all other similarly situated,

 9            Plaintiffs,

10   v.

11   GOOGLE, LLC and ALPHABET, INC.,

12            Defendants.

13    _____/

14

15

16                          HEARING

17

18

19   HEARING BEFORE:      Special Master Douglas Brush

20      DATE TAKEN:       Wednesday, March 23rd, 2022

21         TIME:          Unknown

22        TAKEN:          Remotely via Zoom

23

24

25   TRANSCRIBED BY:  KIMBERLY H. NOLAN
```

Page 2

1   A P P E A R A N C E S

2

3   For the Plaintiffs:

4   MARK C. MAO, ESQUIRE

5   Boies, Schiller & Flexner, LLP

6   44 Montgomery Street, 41st Floor

7   San Francisco, California 94104

8   415.293.6800

9

10   For Defendant Google, LLC:

11   ANDREW H. SCHAPIRO, ESQUIRE

12   Quinn, Emanuel, Urquhart & Sullivan, LLP

13   191 North Wacker Drive, Suite 2700

14   Chicago, Illinois 60606

15   312.705.7403

16

17   For Defendant Google, LLC:

18   JOSEF ANSORGE, ESQUIRE

19   Quinn, Emanuel, Urquhart & Sullivan, LLP

20   1300 L Street Northwest, Suite 900

21   Washington, D.C. 20005

22   202.538.8000

23

24   Also Present:

25   Tracy Gao, Law Clerk at Quinn, Emanuel, Urquhart & Sullivan

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1   P R O C E E D I N G S

2   MARCH 23RD, 2022; VIA ZOOM

3   SPECIAL MASTER BRUSH: Okay. Do we have

4   everybody on -- somebody's just coming in now. I'll hold my

5   thoughts.

6   MR. SCHAPIRO: That should be it for us. That's

7   Viola Trebicka joining.

8   SPECIAL MASTER BRUSH: Okay. Well, great. Thanks,

9   everybody, for coming together on this as we wrap up some of

10   the -- well, really the two open discovery issues that are

11   before me on Brown v. Google.

12   I just wanted to kinda set the stage of where we're

13   going with this today, because, really, what we have to do

14   is finish things, and, you know, there's really the two

15   buckets, let's say, of things that are to be finished, and

16   one being the preservation plan and the searches, and that's

17   it.

18   And, so, with that said, I'm a little bit

19   disappointed in the parties' inability to come up with

20   something more cohesive as a preservation plan.

21   Mr. Schmidt and I will kind of take what was given

22   to us and try to come up with something -- a semblance of

23   something that could be court-worthy, and we'll have to --

24   just have to put the issue to rest.

25   This is really, you know, not gonna be today a

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1   forum for arguments on that. You know, those are long past

2   due, and I really, quite frankly, expected something to be a

3   little bit more fully baked than what was presented, so,

4   like I said, a little disappointed with everybody on how

5   that was presented.

6   But we'll muddle through and try to get something

7   turned around so it can go to the Court, because that's

8   something that, quite frankly, shouldn't take as much work

9   that it's gonna need from Mr. Schmidt and myself.

10   But it needs to get done, so we'll take what was

11   provided to us and kind of put together something that -- to

12   send back to you guys that can be filed with the Court.

13   Moving on to the searches, the searches were

14   provided, and I just wanted to go through that and see how

15   we can finalize these.

16   Basically, what we want to be able to do is put

17   together a final round of searches across whatever

18   respective data sources that need to be searched, produce

19   results, and that's it.

20   So, really what we wanna be able to do is make sure

21   the Brown plaintiffs can provide the right identifiers for

22   the right time periods across the correct -- the necessary

23   data sources and then basically put a search on the Google

24   end and produce those results.

25   So, with that, why don't -- I guess we can work

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1   from the letters that were exchanged yesterday. Well, let

2   me first ask this.

3   From the plaintiffs' side, does that -- do you have

4   what you need at this point to formulate the searches to

5   myself that we can then QC check and send to Google?

6   MR. MAO: Yeah. We -- I think, Special Master

7   Brush, we already provided that to you on Monday, and the

8   identifiers that we selected were the same identifiers which

9   we had from 2, which Google should have.

10   The one outstanding issue which is in front of you

11   both for that and also for the preservation plan is really

12   the ████████████████ bit and where that sits in the

13   fields. I'm sure you can appreciate that.

14   That's actually a field in the GWIS entry proto,

15   and that's gonna be relevant for the searches and also for

16   your preservation plan, because, as you can probably

17   appreciate, that's sitting at the front end of the proto

18   logs, meaning that it's a field that could be in -- you

19   know, assembled for any customized logs, whether going

20   forward or going back historically.

21   I guess we can ultimately not resolve that issue

22   here and save that issue for the hearing in front of the

23   trial court and the magistrate judge in April, but I do

24   think that it's gonna be an important thing to be briefed

25   for both the preservation plan and just for something to be

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1 fleshed out in the searches, because you can probably
2 appreciate the surprise on our side when that showed up in
3 the ▮▮▮▮▮▮ and also the ▮▮▮▮▮ logs for the first
4 time earlier this month (blip) showing up. So (blip) --
5   SPECIAL MASTER BRUSH: Showing up as part of the
6 discovery process?
7   MR. MAO: I'm sorry?
8   SPECIAL MASTER BRUSH: Showing up as part of the
9 discovery process?
10   MR. MAO: Showing up as part of your process,
11 Special Master.
12   SPECIAL MASTER BRUSH: Which is part of the
13 discovery process, but what I'm saying is --
14   MR. MAO: Right, right, right. Sorry. I was
15 unsure if you were differentiating the two.
16   SPECIAL MASTER BRUSH: No, no, no. But the
17 umbrella term.
18   MR. MAO: (Inaudible) lawyer that way.
19   SPECIAL MASTER BRUSH: What I'm saying is like I
20 think -- therefore, the discovery process before me has
21 served a purpose, then, if you're finding out things.
22 That's what discovery does.
23   So, I wouldn't be terribly surprised that you found
24 out things during discovery, because that's its purpose.
25   So, but that being said, you know, if this is a

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1 field that comes as part of a responsive query, so be it,
2 you know.
3   I guess what I'm asking is how -- you know, again,
4 if we're going off the specific identifiers to search the
5 logs with other characteristics, you know, it's something
6 that is either produced as part of results or not.
7   MR. MAO: Yeah. So, let me maybe just
8 simplify that a little bit. Right? If you recall, back in
9 November they produced -- Google produced a number of
10 schema.
11   There's some questions regarding how those schema
12 were produced and then was -- you know, there was some -- I
13 guess some -- I'm trying to avoid argument.
14   There was some perception by Google as to what they
15 believe they produced and perception of the plaintiffs as to
16 what they produced by December, which is, you know, a set of
17 schema.
18   That set of schema does not include that field,
19 although the production of that schema now in February and
20 March show that field, and, of course, that ultimately is
21 because that is a GWIS entry proto buffer field which sits
22 at the very front. It's customizable. It is, you know,
23 movable and mergeable with other logs.
24   And I guess the issue for me right now, setting
25 aside the searches, is that that's clearly part of the

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1 preservation proposal and issues to be addressed, and you
2 can see that that's actually a glaring -- a glaring issue
3 which Google does not wanna address as part of this.
4   And let me point out, you should look at the
5 proposal -- we've been going back and forth last night -- in
6 front of you. That's clearly not there, and here's the
7 reason why. If you go back and --
8   SPECIAL MASTER BRUSH: Are you saying that's the
9 preservation or the --
10   MR. ANSORGE: The preservation --
11   SPECIAL MASTER BRUSH: No. We're not talking --
12 we're only talking about searches. Preservation's done.
13 That was not -- we're taking that -- we're not talking about
14 that right now. We're talking strictly on searches.
15   MR. MAO: Okay.
16   SPECIAL MASTER BRUSH: There is no discussion about
17 preservation today.
18   MR. MAO: Yeah. I guess the question, then,
19 is, you know, whether or not that's, you know, (blip)
20 search.
21   SPECIAL MASTER BRUSH: Just going through the
22 process -- I mean, this is it, you know, what are gonna be
23 the search parameters that you wanna supply us that we will
24 search this final round of searches is what I'm getting at.
25 Like that's where we're at. We need to compile that and

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1 press search and be done with this.
2   MR. MAO: Okay. Understood, Special Master.
3   SPECIAL MASTER BRUSH: Okay. I'm looking at the
4 letter now. Is that something you wanna clearly refine a
5 little bit?
6   MR. MAO: Yeah. We can do that. I think part
7 of the problem, as you can appreciate, Special Master, is
8 that there were searches that were supposed to come back
9 from iterative search 2 -- right? --
10   SPECIAL MASTER BRUSH: Uh-huh.
11   MR. MAO: -- but you wanted to know where we
12 were at with this, which is why we gave you that.
13   SPECIAL MASTER BRUSH: But that's -- I think we're
14 framing up around the same thing, is what do you need. Are
15 we waiting for any further production? Is there something --
16   MR. MAO: Yeah. So …
17   SPECIAL MASTER BRUSH: And if that's the case, I
18 wanna take it to Google and find out -- you know what I'm
19 saying? I just wanna get the order of operations down.
20   MR. MAO: Yeah. It -- I would like to get the
21 remaining searches done for search 2. For example,
22 remember, we don't even have the histograms and the user
23 actions from the UMA searches for search 2 yet. And also,
24 for the test parameters that you had ordered, we also
25 haven't gotten a number of the results back yet.

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1   I'm hoping that with the selection -- you know,
2 while we reserve our objections, that the selection of the
3 publishers last night -- and I think that you were copied on
4 -- we can move past those and at least just get the -- you
5 know, the schema, the fields and also the values if they are
6 expressed so that we can move on with them.
7   SPECIAL MASTER BRUSH: Like I said, on the Google
8 side, are you tracking what Mr. Mao's saying as far as what
9 open productions are out there? Is there anything that you
10 wanna add color to or specifically a timeline to?
11   MR. ANSORGE: We're tracking -- what we wanted to
12 do is provide an update on UMA, which Mr. Mao was just
13 referencing.
14   SPECIAL MASTER BRUSH: Uh-huh.
15   MR. ANSORGE: There I can tell you we have two
16 engineers who are on the verge of nervous breakdowns, who
17 worked through all weekend, who have been trying to
18 reconstitute the historic data for the searches for these
19 specific pulls, and so far those searches have always timed
20 out.
21   We can provide you more technical detail and color
22 after another call with them today, if that's helpful to
23 you, Special Master Brush.
24   What I understand from their description is that
25 these aren't queries that are usually run. They're such a

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1 large source that they're having problems with the
2 information being past.
3   I understand there's some confusion with regard to
4 what Mr. Mao was stating earlier with the searches, the
5 Incognito fields in the preservation proposal. We're happy
6 to address any of those at your convenience.
7   But what we're due for the searches is we're
8 closing out the searches that are in the pipeline. We have
9 very helpful -- and we appreciate Mr. Mao's forthright
10 approach here -- we received their -- the selection for the
11 publishers that are supposed to receive notice.
12   Our hope was that we would be able to just provide
13 notice once. Unfortunately, we still don't have the notice
14 from -- or the selection from Calhoun. Hopefully, if we can
15 get that today we can, you know, have one process whereby we
16 notice all the different publishers.
17   We're not sure what other searches Mr. Mao proposed
18 or sent yesterday. I believe he's followed the process
19 properly as in sending it to the special master first. So,
20 I'm not sure how they slot into what we currently have going
21 on, but we are awaiting them with rapt attention.
22   SPECIAL MASTER BRUSH: Gotcha. Yeah. No. And
23 that's kinda why I firewalled it a little bit, just so we
24 can make sure one process doesn't interfere with the other.
25 So, it sounds like it's a work in progress with a TBD date

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1 based on some other options that have to be done today
2 because there was -- it was either timing or failing out
3 over the --
4   MR. ANSORGE: Yes.
5   SPECIAL MASTER BRUSH: Okay.
6   MR. ANSORGE: Yes. On the UMA search. I mean,
7 you can provide more data. We've got a -- we're gonna have
8 a call with them later where I can give you the different
9 technical details, but my understanding is that -- we've
10 been receiving pings all through the weekend -- they've been
11 trying to troubleshoot in a variety of different ways to
12 pull that specific -- the historic dates that were required
13 and to reconstruct the searches that were done before.
14   I'm hoping that it's not going to be required
15 because we have so much overlap anyway now between the most
16 recent ███████ production and the previous UMA searches that
17 the main concern Plaintiffs had about overlaps should be
18 addressed with what we've already done and the data that
19 we're about to produce.
20   With regard to the publisher notice, we'll await
21 your input. We would really appreciate it if we could also
22 have them from Calhoun and then do it in one fell swoop, but
23 if it's --
24   SPECIAL MASTER BRUSH: No, no. I'm fine with that.
25   MR. ANSORGE: -- it's that frozen in time, okay,

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1 great.
2   SPECIAL MASTER BRUSH: Yeah, yeah. Because -- no,
3 that makes sense.
4   MR. ANSORGE: Our TBD -- our goal there is seven
5 to eight days for the publisher notice, and that's when we
6 should be done -- well done with everything that's in the
7 pipeline, everything that's been produced.
8   The UMA data should be in well before then, as well
9 as anything else that's outstanding.
10   SPECIAL MASTER BRUSH: Okay. Mr. Mao?
11   MR. MAO: Yeah. Just for the historical
12 searches, recall, Special Master Brush, we had been asking
13 for those since November in the process, and we're not
14 asking for a lot of dates here. I would like for that
15 process to be (blip).
16   I don't see -- in terms of them not being produced
17 for search 2, that was not any shortfall or any failing on
18 Plaintiffs' side. You know, in search 1 it produced the
19 histograms, they produced the user actions, and those are
20 simply omitted in search 2 using a different (blip).
21   MS. ANSORGE: Yes. And we're rerunning the
22 searches that can be run quickly and out through the window.
23 There's also duplicative dates.
24   What I was providing an update on is trying to
25 reconstruct the historic searches, and I think that is

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1 timing out and that's not working.
2   And, Mr. Mao, I apologize. It's not that this is
3 something that we are doing to spite you. Believe me, I
4 would love for this to be over and just hand it to you.
5 There's actual technical limitations.
6   The engineer tells me it's timing out and they have
7 been working on it all weekend in light of all their other
8 tasks that they're supposed to be doing. That's the truth.
9 That's what I'm conveying to you.
10   I think it's not a problem, and it shouldn't be
11 one, because there's already overlap so many times over, and
12 I'm hoping we can lay it to rest.
13   I would also -- I'd just -- if there are any
14 additional searches that the special master team approves,
15 we would respectfully request that they don't require more
16 publisher notice, that that's not something we would have to
17 do again.
18   SPECIAL MASTER BRUSH: Okay. So -- go ahead, Mr.
19 Mao.
20   MR. MAO: No. Just from the publisher notice
21 thing, we have an interim solution, you know, with both
22 sides reserving their rights on that (blip).
23   In terms of what Mr. Ansorge is saying, that there
24 be no more publisher notice, I'm just not sure that that's
25 an argument we need to get into now, because I'm not even

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1 sure what publishers (inaudible) would require notice. You
2 know, we're talking about a hypothetical now (blip) and I'm
3 not sure what that means.
4   I'm not sure if that (blip) means that we're gonna
5 (blip) on the production or -- I mean, you see which
6 publisher (blip).
7   MR. ANSORGE: I lost part of the sound there.
8   MR. MAO: Yeah. I mean --
9   SPECIAL MASTER BRUSH: Yeah, Mr. Mao. Can you
10 please -- please, just restate the question.
11   MR. MAO: Yeah. My question is what is -- Mr.
12 Ansorge, I'm not sure what you mean by "no more additional
13 publisher notice." We (inaudible) --
14   MR. ANSORGE: (Interposing) Yeah. I'm happy to
15 address that, Mr. Mao.
16   SPECIAL MASTER BRUSH: Yeah. I think that's a
17 clarification -- I'll let Mr. Ansorge clarify that, because
18 I think I'm tracking what he's saying and there might just
19 be a disconnect there.
20   MR. ANSORGE: So, the list that we provided you,
21 Mr. Mao, you'll see that there is I think 400-plus different
22 publishers. Some of them, because we've broken it out by
23 how many events they correlate to, is one publisher for one
24 event. We believe that it's unduly burdensome and not
25 proportional to the needs of the case, where this is all p-

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1 log data, to have individual bilateral communications with
2 each publisher for a single individual event.
3   However, we gave Plaintiffs the option to choose
4 different ones if they want to, if there's a specific one
5 that they're interested in.
6   So, our fervent hope is that the publisher notice
7 can be done in one fell swoop, these are the ones that are
8 going to be noticed for Brown, these are the ones that are
9 going to be noticed for Calhoun, if we can have one process
10 by which we do that and then we are closed out and there's
11 no more publisher notice that's required.
12   So, what we're saying is for the next round of
13 searches we would hope that we're not again selecting
14 sources that require publisher notice so that we don't have
15 to go through that process again so that we can in one fell
16 swoop deal with it. That is our request.
17   So, the next round of searches, if we already know
18 what they are and the special master team approves them and
19 they do require publisher notice, then I would prefer for us
20 to sort that out today before we notice the 30-something
21 publishers that you have selected and then have to notice
22 other ones in a few days afterwards.
23   MR. MAO: Yeah. I mean, you see the --
24 Special Master, I hope you see the catch-22 here for the
25 Brown plaintiffs in the sense that -- well, let me -- Mr.

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1 Ansorge, before you -- just let me finish my argument.
2   Google is the one with the storage of the data, and I'm
3 not trying to create additional notice requirements for you.
4 We're simply saying these are gonna be our searches and
5 we're entitled to the data we're entitled to.
6   Yhere's also a protective order in place in terms
7 of your concerns about the publisher notice. We already
8 went along with your interim solution and selected, you
9 know, with reservation of rights, so that this can move
10 forward.
11   I'm not gonna carte blanche agree to something
12 which I don't know what you're actually asking me to agree
13 to before we've actually gone into it.
14   I mean, Mr. Ansorge, what you propose is
15 (inaudible) --
16   SPECIAL MASTER BRUSH: (Interposing) Well, let me
17 pause -- let me pause you right there, because I just wanna
18 make sure we're clearly understanding this, we're not --
19 okay.
20   So, I believe what, Mr. Mao, you're saying is
21 because you don't have the search results that are being
22 held back at the current time because of publisher
23 notification, you don't have all the information that you
24 need to craft the final searches that may also require
25 publisher notification. Is that what you're saying?

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1   MR. MAO: No. I don't -- no. I think what
2 Mr. Ansorge is referring to is that once we submit the final
3 searches he's gonna hold back whatever -- whatever is deemed
4 to have required publisher notice unless we address that
5 today, Mr. Brush, and what I'm saying is how do I do that
6 when I don't know what's gonna be coming back.
7   SPECIAL MASTER BRUSH: Yeah. No. I -- it's --
8 it's --
9   MR. MAO: We're not talking -- see, we're not
10 talking about the historical corpus right now, we're talking
11 about the -- sorry -- we're not talking about the historical
12 corpus -- sorry -- we're not talking about the results that
13 they are preserving, we're talking about these final
14 searches that you want done. Right?
15   Like Mr. Ansorge's asking me to say "Yes, if
16 there's any part of that that requires additional publisher
17 notice -- " okay? -- they're not gonna produce that and that
18 Mr. Mao and Mr. Frawley will have forever waived their
19 rights here today on that, and I'm not (inaudible) --
20   SPECIAL MASTER BRUSH: (Interposing) Well, listen.
21 I mean, I've already ruled on the fact that if there is
22 responsive data that's part of the publisher data corpus and
23 they need to be notified, they will, it's just a matter of
24 timing. I think I've been pretty clear that that's a --
25 that's something that will happen.

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1   What we're trying to find out is the most efficient
2 way for the defendants to do it so they can focus energy and
3 time and also getting you the results, because there are
4 limits in resources. And that's the way I'm looking at it.
5   Mr. Ansorge, is that where -- are you understanding
6 that as well, that if there is responsive data that needs
7 third-party publisher notification that no matter what it's
8 gonna be done, it's just a matter of timing?
9   MR. ANSORGE: So, I think we might have a slight
10 disconnect on what is responsive data and what is not. Our
11 understanding from the search for the preserved data was
12 that we were going to identify what publishers it would not
13 be unduly burdensome to notice, because providing notice to
14 hundreds of publishers we believe is unduly burdensome and
15 not proportional to the needs of the case, especially where
16 this is all p-log data, which is not in the class, not part
17 of the actual case, so we're engaged in these individual
18 bilateral communications with all these different publishers
19 for data that might be relevant in a different case. It's
20 actually not relevant in this case.
21   Our hope was that we would select -- and I
22 understand Plaintiffs are not waiving any of their rights,
23 but they select specific publishers that make up the bulk of
24 the corpus of the events, and we had frontloaded that
25 exercise for them by saying "There's these -- if you pick

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1 these 20, you get more than 50 percent, there's something
2 like 60,000 different events. You pick these ten, you'll
3 get more than 80 percent in different formats for a
4 different set of searches."
5   If we do that, we have one moment where there's
6 notice, and we would prefer for that moment to be later in
7 the day if there's more that should be noticed, or if the
8 ruling is that actually all of them need to be noticed and
9 we do have to provide notice to 400 or 500, then we should
10 do that in one fell swoop.
11   If the additional searches that are currently being
12 discussed entail further publisher notice, our request was
13 simply that we would roll those into the publisher notice
14 that's currently going forward.
15   It wasn't intended to raise the temperature or to
16 move into argument in any way, Mr. Mao.
17   SPECIAL MASTER BRUSH: No, no. No. Okay. I take
18 it there's an important distinction there. We're talking
19 about the -- you know, and I apologize if I (inaudible) --
20 we're talking about two different buckets of data.
21   You know, we have the data that was initially
22 preserved. You know, we call that the preserved, not
23 produced historical data, which mixes a lot of the
24 terminology we're using, but it's the data that was
25 initially preserved but not produced.

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1   Is that the data set we're talking about?
2   MR. ANSORGE: It's one of the data sets we're
3 talking about.
4   SPECIAL MASTER BRUSH: One, right. And then --
5   MR. ANSORGE: It's one. So -- yeah.
6   SPECIAL MASTER BRUSH: And, so, for that, one of
7 the things I suggested was running searches along that and
8 seeing what was responsive to -- what was responsive to the
9 searches that might have third-party publisher notification.
10 Was that something that either could be done or does that
11 make sense in general terms?
12   MR. ANSORGE: Yeah. As something that could be
13 done that does make sense. I believe we had a more detailed
14 discussion about it in the Calhoun case where we were saying
15 if we want to follow the practice that has been implemented
16 in the special master process, then we're running a specific
17 ID over a specific source for a specific period, and the
18 returns that are then, you know, responsive, we then
19 determine what is required for the publisher notice.
20   Here, they were going to receive even more where
21 instead of having to make that cut, we have already produced
22 AdMob and AdSense publisher data, which it's something like
23 400 different publishers rolled up in the first one, even
24 though neither of those products are part of the categories
25 of the actual services at issue in the class definition.

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1   We now are discussing the tail end of logs that
2 require AdManager publisher consent, and for those we've
3 already previously produced logs that require the consent,
4 in January, so there should be clarity in terms of the field
5 structure.
6   We had reached this compromise proposal where we
7 ran IDs, stripped out the values so that Plaintiffs would
8 have the different field structure or kind of schema
9 approximation for certain tests to count IDs.
10   We're now simply talking about how to close out the
11 process most efficiently. And we're fine with providing
12 this large bulk of preserved data. Our main concern about
13 the burden relates to the burden in proportion of having
14 individual conversations with hundreds of different
15 publishers.
16   SPECIAL MASTER BRUSH: No. I get that.
17   MR. ANSORGE: The less sophisticated ones have --
18 might not have in-house counsel, might not be familiar with
19 the data flow at all. We'll have to in different ways
20 explain it.
21   It ends up being a very heavy lift for data that by
22 Plaintiffs' definition is not at issue in this case.
23   MR. MAO: So, we -- well, we disagree with
24 that, but I'm trying to avoid argument here today, Mr.
25 Brush.

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1   SPECIAL MASTER BRUSH: Oh, sure. I'm just trying
2 to (inaudible) that we have two buckets -- that we have kind
3 of two -- they'll give us two buckets or tranches of data.
4   We have the historical -- or the preserved data
5 that has been preserved but not searched. I would prefer
6 that we find some strategy for this to produce responsive
7 data to search criteria that we have.
8   Now, you've already gotten a good amount of that
9 that doesn't need the third-party consent, so there's been a
10 substantial production of that.
11   For the stuff that's left over, I think we do need
12 to find a way that needs to make it more in scope and in
13 line with the case so it's not a nowhere production, and
14 that's where I'm trying to apply some methodology that we've
15 used in the past in doing a terminology search.
16   Because essentially there is data there that we
17 don't even know is responsive, and it doesn't make sense for
18 Google to have to sit -- go out there and go to do all these
19 publishers who basically don't have data that falls within
20 the responsive scope. Now, there's that.
21   Now we have all the other data that's in production
22 systems, and production systems being, you know, what's in
23 the Google day-to-day environment, and that goes for stuff
24 that's mirror-term searches, just stuff that's historical
25 logs that are sitting on Google servers. That stuff, you

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1 know, we've been searching in iterations and doing different
2 searches.
3   As we finalize those searches and we're looking --
4 you know, I think we've talked about -- I'm just gonna use
5 the terminology (inaudible) -- but like these flume searches
6 across a lot of these compressed sequel databases.
7   I would anticipate -- and, Mr. Ansorge, you can
8 tell me -- that there would be a similar problem as we get
9 into this, that there could be publisher data in those final
10 searches that then would require notification.
11   MR. ANSORGE: So, there's a few logs where that
12 would be the case. I think it -- to respond to your first
13 question on how to close this out, I think this is what we
14 would propose for the bucket where this is data that was
15 part of the second set of iterative searches.
16   Plaintiffs have I believe selected more than ten --
17 something like 14 -- different publishers. That provides
18 them the vast bulk of -- 80, 90 percent of all the different
19 event records of those specific searches, and it ends up
20 being a targeted set of notice requirements, and we would
21 propose that we follow that path where Plaintiffs have
22 selected specific searches.
23   We understand they're not waiving their rights, but
24 just in the interest of proceeding and managing to close it
25 out for the preserved data, historically preserved data.

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1   I wouldn't want to be too aggressive, but my
2 opening position, Special Master, would be that, well, none
3 of this is relevant because it's all p-log data, and that's
4 not the data that we've been -- has been subject to targeted
5 searches.
6   However, putting all that aside and having no
7 argument, we've already produced AdMob, AdSense data. We
8 would be prepared to, in the interest of closing this
9 process out as quickly as possible, not forgoing the
10 targeted searches, because I think that that would be more
11 time-consuming at this stage, and instead focusing on these
12 20 publishers and providing them notice.
13   This will give Plaintiffs, in addition to all the
14 data they already have, another surfeit of information.
15   And I think most important for the historic data
16 discussion is this is data that would start from June 2020
17 in different forms encapsulated daily, and that is provided.
18   So, it covers a lot of the concerns and questions
19 about historic data, and I hope that will obviate the need
20 for at least a large part of further searches.
21   MR. MAO: That was a lot. Special Master
22 Brush, I (inaudible).
23   SPECIAL MASTER BRUSH: (Interposing) No. I'm
24 unpacking. I'm just -- yeah.
25   MR. MAO: I think the main thing here is we,

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1 too, want to be finished with the process. We just want our
2 data so that there's no gas in the hole from them.
3   SPECIAL MASTER BRUSH: No. And it's -- look, we
4 wouldn't be in this process if it was easy. I mean, there's
5 complexities to this that we're working through and I
6 believe both parties are doing in good faith.
7   I mean, to me it keeps falling back that if there's
8 responsive data based on the search criteria -- or the
9 search process in the November 12th order, and the way that
10 we're doing it, it needs to be searched -- well, the
11 identified data sources, you know, need to be searched with
12 the criteria process in the November 12th order, and if it's
13 responsive, it needs to be produced.
14   I mean, that's just the logic I'm trying to follow
15 here in trying to apply this to this problem. Then we have
16 the issue with the third-party notifications.
17   And, really, that all falls more -- I mean -- well,
18 I mean, it really kinda falls across both. I mean, this is
19 why we have this process.
20   But I understand we're also -- I do appreciate, you
21 know, Google's position of trying to be efficient in the
22 notification process, and I do understand there's resource
23 constraints on that. I'm just trying to figure out where
24 the gap -- you know, where the potential gap is here.
25   If we go forward with what Google's proposing,

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1 without waiving any rights, to get some data into
2 Plaintiffs' hands, might be the best way to go forward just
3 so we get something going.
4   But I appreciate the concerns from Plaintiffs and
5 would -- you know, if there is a concern that we can
6 distinctly say something's not right or missing or, you
7 know, we need you further, then by all means, we would have
8 to readdress that.
9   But we need to kinda get this going forward in some
10 manner, and --
11   MR. ANSORGE: So, a potential solution, if I may,
12 following up on that opening, Mr. Brush, then would be we
13 provide notice to all the publishers that are entailed in
14 the second round of searches.
15   SPECIAL MASTER BRUSH: Yeah.
16   MR. ANSORGE: By my count, that would be 81. Some
17 of those, there's just individual single events.
18   SPECIAL MASTER BRUSH: Sure.
19   MR. ANSORGE: However, I would then respectfully
20 request that we don't provide any notice and do not provide
21 any data from that preserved corpus of p-log data, which
22 entails many different -- hundreds of different publishers,
23 and we focus -- we follow, you know, this line stringently,
24 that if there's something -- a search that was conducted
25 under the November 12th process, we'll provide the notice

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1 and that's -- you know, some of the -- I'm looking at the
2 second-round searches.
3   Some individual ones -- Glassdoor, Inc. -- is just
4 a single event, so we would have to speak to, you know,
5 counsel at Glassdoor about one plaintiff visiting one
6 website associated with Glassdoor one time, but we'd be
7 willing to do that to close out the process, and that would
8 then be noticed for 81 different publishers for the second
9 round of searches.
10   MR. MAO: So, Mr. Brush, for the historical
11 corpus, what the clients really want -- sorry -- what the
12 plaintiffs really want are their IDs. That's one thing.
13 And these other things --
14   SPECIAL MASTER BRUSH: Mr. Mao, let -- sorry.
15 Let's clarify. When you say "historical," which data source
16 -- I mean, which -- are you talking about the --
17   MR. MAO: The preserved corpus, the preserved
18 corpus.
19   SPECIAL MASTER BRUSH: Okay. The preserved, not-
20 searched, partially-produced data set.
21   MR. MAO: Yeah. I mean, I think -- I think a
22 very small amount of that was produced. What you're looking
23 for --
24   SPECIAL MASTER BRUSH: Well, and that's the
25 question -- yeah, yeah. You led me right into where I was

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1 going with it.
2   Do we know if -- and maybe we did this in Calhoun.
3 Is there a way to get a percentage, to say, well, look --
4 you know, whether in gigabytes or records or some way to
5 determine, you know, what was not produced because of the
6 need for third-party consent, to say, well, heck, it's only
7 5 percent, so, yeah, let's forgo that, because the bulk of
8 the data is gonna be within the stuff that has been
9 produced.
10   We don't know, unless Google can provide an answer
11 to that now.
12   MR. ANSORGE: So, we had run some of those numbers
13 for Calhoun. I would have to go and confirm them for Brown
14 -- and I'll speak to an engineer -- but they are I believe
15 in the range of -- it's something like 10 percent. And,
16 again, it's data that --
17   SPECIAL MASTER BRUSH: They being 10 percent that
18 was produced or held back?
19   MR. ANSORGE: No. Ten percent that was held back.
20 So, and these are for log sources where, you know, they
21 implicate third-party publisher data, and it's all p-log
22 data, so actually, by definition, not at issue in this case.
23   But that's -- I can get the specific numbers for
24 you. I'll ask the engineer.
25   SPECIAL MASTER BRUSH: Why don't we do that?

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1   MR. ANSORGE: But it's not a situation where
2 there's more of the not-produced data than produced data. I
3 mean, the ratio is the other way around.
4   SPECIAL MASTER BRUSH: Yeah. No. If that's the
5 case, that's a substantial amount, and we -- I would be in
6 the position of deprioritizing -- you know, wrestling with
7 that continually in favor of putting the efforts and laser
8 focus on finishing the searches, for the searches that have
9 been completed that need notification, getting those done,
10 and then finalizing the searches.
11   But if that's the case, then we are gonna
12 deprioritize that small subset of data, because there has
13 been a lot that was produced that, quite frankly, was never
14 really honed down or searched.
15   And, so, there would be enough data in there for
16 Plaintiffs to make a determination for final searches.
17   MR. MAO: So --
18   SPECIAL MASTER BRUSH: Now --
19   MR. MAO: Sorry, Mr. Brush. You're still
20 talking about the historical preserved corpus, right?
21   SPECIAL MASTER BRUSH: Yeah. I'm like -- I'm still
22 hesitant to say the word "historical," because there is --
23 when we've said that about some of the -- you know,
24 historical data being everything that's in the production of
25 the live systems and stuff that's in active databases but

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1 might be in a mere -- or a more offline status.
2   So, we do have some of that historical -- like
3 there's that data that still needs to be potentially
4 searched. I'm just talking about the stuff that was
5 preserved early on in the matter.
6   MR. MAO: Right. And that's what I'm talking
7 about as well.
8   SPECIAL MASTER BRUSH: Okay.
9   MR. MAO: Again, I'm --
10   MR. ANSORGE: We can probably run those numbers
11 just based on the spreadsheet we produced to you -- I'm
12 sorry for interrupting, Mr. Mao. I'm just adding them up
13 real quickly.
14   MR. MAO: Yeah. Mr. Brush, we're looking
15 really primarily there for two things, which is, one, what
16 is stored, not the actual values -- we just wanna know what
17 is actually being stored and kept and what was preserved --
18 and, two, our clients' IDs (blip) that list.
19   So, so long as you're not precluding us from
20 obtaining our IDs, you know, from there searching that for
21 our clients' IDs, and we're able to get an inventory of what
22 is actually stored and preserved, there might be some ways
23 to go forward on this.
24   SPECIAL MASTER BRUSH: (Interposing) Well, I think
25 we have to start with --

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1   MR. MAO: (Inaudible)
2   SPECIAL MASTER BRUSH: Yeah. We need some metrics
3 around what's there. I mean, you have -- you know, let's
4 just say it is, you know, 90 percent of the data. What's
5 missing, Mr. Mao?
6   MR. MAO: We don't have 90 percent of the
7 data.
8   SPECIAL MASTER BRUSH: But we just -- if that's the
9 determination, Mr. Mao, that only 10 percent was held back
10 because of the publisher issue, and you have the rest of
11 that, what's missing specifically?
12   MR. MAO: Do we really know that for a fact?
13 I get -- that was a question that I've been asking.
14   (Speaking simultaneously)
15   SPECIAL MASTER BRUSH: Well, we're going to find
16 out by --
17   MR. MAO: That was a question I'm asking
18 (inaudible).
19   SPECIAL MASTER BRUSH: Yeah. Well, that's what I
20 just said.
21   MR. ANSORGE: (Interposing) Yeah. But there's a
22 lot of different ways for us to count it. I mean, I'm
23 getting a count on the actual file size. We could also look
24 at the events that required -- that are associated with
25 publishers that we've already produced, and that I'm just

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1 deriving from the spreadsheet that we sent everybody
2 yesterday. There's 29,000 --
3   SPECIAL MASTER BRUSH: Let's answer it -- yeah.
4 Let's (inaudible). I don't wanna misrepresent it on the
5 record. That's just -- you're setting yourself up for
6 failure; don't do that. Let's take this one offline.
7   Let's get the counts and make a determination on
8 this data set. But if that's the case and we have a better
9 understanding -- and maybe, you know, explain it again, even
10 if it's explained in writing, what the data represents that
11 was held back versus what was produced so we have clarity in
12 both numbers, counts and context, I think that will help all
13 of us make a better determination.
14   So, if we can get that -- can we say by close of
15 business today?
16   MR. ANSORGE: Yes. Will do.
17   SPECIAL MASTER BRUSH: Great. All right. So,
18 moving past that data, what do we need -- okay. So, then
19 there's -- okay. So, there was the iterative round 2 search
20 data that still needs publishers' consent?
21   MR. MAO: Sorry, Mr. Brush. Was that to me?
22 You were asking if --
23   SPECIAL MASTER BRUSH: Oh. That was actually to
24 Mr. Asorge.
25   MR. MAO: Oh, okay.

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1   SPECIAL MASTER BRUSH: So, there was -- there was -
2 - was there stuff that was -- taking that date set out,
3 there's still the issue of publisher consent on some of the
4 searches that have been done?
5   MR. ANSORGE: Yes. So, the second-round searches,
6 those also --- there are some that require publisher notice.
7 There's 81 if we provide notice to each one. If we provide
8 notice to the top ten, that's more than 80 percent of the
9 different events.
10   SPECIAL MASTER BRUSH: Okay. Now, for those,
11 because they were responsive, just provide notice to all 81
12 and let's get that data turned over.
13   MR. ANSORGE: Will do.
14   SPECIAL MASTER BRUSH: Okay. And for that -- Mr.
15 Mao, for that data, are you saying you need that data
16 produced before you can provide your final search criteria?
17   MR. MAO: It's hard for me to say, Mr. Brush,
18 without knowing just generally what's in there -- right? --
19 so that's why the inventory would help. If I could even
20 get, you know, a general sense of what's in there, that'd be
21 helpful.
22   SPECIAL MASTER BRUSH: Well, I think there's two
23 different -- let's say we're taking away the bucket with the
24 preserved data, just talking about their two searches.
25   MR. MAO: The -- sorry. Which searches?

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1   SPECIAL MASTER BRUSH: The iterative two searches
2 that still needed publisher consent before they were turned
3 over.
4   MR. MAO: Oh, yeah. Those we definitely need, Mr.
5 Brush. I think you can appreciate there was test data in
6 there, too, and we just wanna see what (inaudible).
7   SPECIAL MASTER BRUSH: (Interposing) Yeah. No, no,
8 no. I'm looking in your favor on that one. It's a little
9 softball (inaudible).
10   MR. MAO: Yeah. I know, I know. Which is why
11 I kept asking -- like we're talking about the --
12   SPECIAL MASTER BRUSH: I know.
13   MR. MAO: -- I don't wanna -- not historical
14 but the preserved data. Right? Because I just wanna make
15 sure that we finish out, you know, the testing and iterative
16 searches rounds, like -- you know, like what went in. We
17 should be able to (blip).
18   SPECIAL MASTER BRUSH: Yeah.
19   MR. MAO: Yeah. That's right.
20   SPECIAL MASTER BRUSH: Right. And, so, we need
21 that. So, I guess it becomes for the 81 that need
22 notification, how long -- I mean, I'm assuming there's a
23 blank -- is there a blanket provision in the contract -- if
24 you don't know that, don't guess -- but as for how long?
25   You know, we talked about anywhere from 21 to 30 days.

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1 I mean, is there any way to expedite that process by having
2 people pick up the phone with counsel and those parties and
3 say, "Hey, look, here's the situation. Can we get a 'yes'
4 or 'no' and put it in writing?"
5   MS. ANSORGE: Yeah. It's much easier, of course,
6 if we have the 10 or 20 that was the -- that was our
7 thinking, Special Master, that we could, you know, work the
8 phone lines, and if the 10 or 20 -- they're usually large,
9 sophisticated publishers -- New York Post, Fox News.
10   We've spoken to them before. They understand this.
11 They have familiarity with litigation. It's quicker, and
12 it's something where we don't require as much notice.
13 That's why we had hoped to focus in on a handful.
14   We can, of course, still, you know, contact Turner,
15 HBO, the key players that there's relationships with, but
16 it's -- my concern is that there's just going to be a whole
17 bunch where, you know, they're not as -- like Glassdoor --
18 I'm just looking at this as an example -- latent digital --
19   SPECIAL MASTER BRUSH: I get that. So, it's yes,
20 that you'll -- we'll do what we can to expedite that?
21   MR. ANSORGE: Yeah. Well, we'll do what we can to
22 expedite -- we can do it with the 10 or the top 20.
23   I'm not sure how we can do it for 80 different
24 ones, but, of course, we'll do our best and put forward our
25 best efforts to make sure that it doesn't take 21 or 30 days

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1 or anything like that. We'll aim to close it out in eight
2 days after we provide the notice.
3   And, of course, that's pushing it from the
4 publisher perspective in terms of what is reasonable notice,
5 but …
6   SPECIAL MASTER BRUSH: Okay. That sounds good.
7 All right. So, why don't we close this out by -- so, I
8 think Google, you owe us a couple status report updates as
9 well as -- you know, by the end of the day as well -- you
10 know, what was timing out, get those updates, and then some
11 context around the preserved data that's still not been
12 produced, that potential 10 percent, let's get some slice-
13 and-dice numbers -- records, percentage, gigabyte counts --
14 and what it represents as far as the number of fields, just
15 so -- you know, and look, if there's been -- if you can even
16 say "Well, look, there's been similar field production from
17 publishers that didn't need the consent," you know, what
18 does that look like, just so we're not guessing.
19   The more context the better is what I'm getting at.
20   MR. ANSORGE: Yes. You'd like us to identify what
21 publishers did not require consent?
22   SPECIAL MASTER BRUSH: No, no, no. I'm just saying
23 if there's an example -- like what I'm thinking is, I'm
24 imagining in the data that's been produced there was
25 publisher information.

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1   MR. ANSORGE: Yes, yes.
2   SPECIAL MASTER BRUSH: So, I'm saying haul that out
3 and say, "Look, that's the general structure," then they'd
4 say, "Okay, then we know what's missing in the stuff that
5 would be potentially not produced." Do you understand what
6 I'm saying? Just so we know (blip).
7   MR. ANSORGE: I understand, yeah.
8   SPECIAL MASTER BRUSH: Okay. So, we'll look for
9 those -- for that feedback today, and then we're gonna kinda
10 move from there.
11   MR. ANSORGE: And with regard to the next searches
12 that Plaintiffs would provide, it would be very helpful if
13 Plaintiffs already know at least what sources they are
14 considering, because then, you know, that's something we
15 could factor in in terms of well, this is one that would
16 require publisher notice and we would try to frontload it so
17 that all the notice happens at once, just as a request.
18   If there are to be additional searches, if we
19 already know the sources, it would really be fantastic if
20 you could identify those for us.
21   MR. MAO: I think we have a good sense of the
22 sources. The one kind of like "X" factor is really what I
23 mentioned at the beginning of the call, which is the logs
24 that would contain the ██████████████ or -- the ██
25 ████████████ fields within the schema.

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1   You know, if your response is "Well, that could've
2 been in any of the logs that were identified," that's one
3 thing --
4   MR. ANSORGE: Yeah.
5   MR. MAO: -- but if it's not, you know, I do
6 think that that's gonna accelerate debate -- I'm sorry --
7 accelerate a conclusion to the debate on what sources to
8 search, because otherwise you're just gonna get a -- you
9 know, a broad request to include all of those sources in the
10 searches, which I don't think is gonna be helpful to Mr.
11 Ansorge.
12   MR. ANSORGE: So, I think we might be speaking
13 past each other, but I'm glad you've raised that here to
14 just give me an opportunity to I think explain where there's
15 a disconnect.
16   Dr. Sadowski at her deposition testified about that
17 particular field, and there's a 30(b)(6) deposition that
18 Plaintiffs took, that your colleague, Mr. McGee, and there
19 she explained that this is a field that's used by the ███
20 logs, as in it's specific to the █████ logs, and if a field
21 is specific to a log it can be written to a proto, but when
22 a different product area has a different log that uses the
23 same proto, that doesn't mean that they have access to that
24 field.
25   And this is the fundamental problem that we've had

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1 when proceeding with the proto as a unit of analysis, or
2 maybe even the field as a unit of analysis, is it's still
3 tied to a very specific log source in this case.
4   So, there are specific ████ logs that we've
5 disclosed to you that have the field that's written, that
6 actually have that value. If that's a search you're
7 requesting, we can figure out whether those entail publisher
8 data.
9   But I want to clarify that because something is in
10 a proto, that does not mean it's in every log that uses that
11 proto. The proto is a list of all potential things that
12 could be filled in.
13   A lot of those are access-restricted, can only be
14 filled in by specific logs, and it's for that reason that in
15 our preservation proposal what we have tried to do is move
16 from the log level of analysis into the field level, where
17 if we agree these are the key fields that you're interested
18 in, we will work to figure out what is the longest period of
19 log where that exists.
20   That's separate from us changing the preserved --
21 preservation for entire log infrastructures, and I think
22 it's the most efficient way for us to proceed.
23   MR. MAO: But that field is already in two of
24 the logs in which -- in two of the five Bert Young logs --
25 right? -- and that's on the ad side, that's not on the

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1 ████ side. In my understanding from Dr. Sadowski's
2 deposition, that field had been constructed and had existed
3 ever since 2017.
4   MR. ANSORGE: And, so, because a field is seen in
5 a proto and the log uses that proto, that does not mean that
6 that particular field has a value.
7   The default will be false for values, and you're
8 going to find that -- you know, it -- UMA uses a GWIS proto
9 for parts of its infrastructure. That doesn't mean that it
10 has that field written into it.
11   So, it's a -- if we need to search for information
12 related to that specific field, the special master thinks
13 that's, you know, proportional and appropriate for us to
14 proceed, I think we would -- could only do it in the
15 specific ████ logs, except if you're just looking for some
16 kind of description of the field infrastructure overall.
17   But the overall point I'm trying to make is that
18 the level of analysis -- and this is what I tried to argue
19 at our in-person hearing, too, and I'm sorry if I wasn't
20 effective in communicating it -- but I think the most
21 efficient and effective level of analysis for us is the
22 actual field and not the log infrastructure as we're
23 discussing the preservation plan, because we very quickly
24 find ourselves in a scenario where -- right? -- each log
25 will have standard preservation periods, each field will

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1 have different ones.
2   But what we really need to be focused on are these
3 are the fields Plaintiffs care about, that they know about,
4 that they're focused on, that are in their complaint, and
5 for those we can figure out preservation proposals, and
6 that's what we tried to do in the proposal that we sent you.
7   MR. MAO: And I'm not trying to lock you down
8 on the logic or the structure -- right? -- I'm literally
9 saying that for the logs you have identified as part of the
10 special master process, one, what logs actually include that
11 field, whether at a proto level or at the actual log level,
12 and then, two, which of those logs actually has that
13 specific field filled. I realize that there may be --
14   SPECIAL MASTER BRUSH: (Interposing) Well, there's
15 one nuance -- you're so close. I think there's one nuance.
16 The problem is which logs have the capability for that
17 proto, because, again, I think what Mr. Ansorge is saying is
18 like just because it can doesn't mean it does exist, and
19 that's where there's this kind of ephemeral thing. And, so,
20 that map -- and so -- and, honestly, I mean -- and maybe --
21 I don't know what that is, so I'm gonna kick it back to Mr.
22 Ansorge on what that is. No.
23   Is that even a doable thing to say, okay, with the
24 logs that have been identified as part of this process,
25 which ones could have -- could potentially have that field

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1 due to the proto construction, which ones do, and then a
2 count.
3   I don't -- I mean, is that -- it seems like "Is the
4 field there, yes or no" would be the easiest one to answer.
5 How full that is is a little bit more complicated.
6   And then potential field representation I'm
7 guessing is gonna be harder. Is that a fair assumption?
8   MR. ANSORGE: So, in general, there is no specific
9 tooling to say, well, this particular field will always be
10 written into a specific log. There are exceptions, and this
11 is one of those wonderful exceptions.
12   The data that we've already provided to Plaintiffs
13 that they requested, the excerpts of the source code that
14 have been provided, the proto descriptions that have been
15 provided, make clear, along with the corporate testimony
16 that's already been offered, that this is a field that's
17 only filled in by specific ███ logs.
18   We've listed out the ███ logs, we prepared a
19 deponent to testify on those ███ logs, and I won't be
20 able to, I think, add much more than what they have already
21 provided, which is there's a field that was built, it's
22 based on the same Heuristic method that we had discussed
23 many times in this case, which is the absence of the "X"
24 Klein data header, and it uses that to attempt to infer when
25 users are not in Incognito mode because they're trying to

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1 improve the product for users who are not in Incognito mode,
2 and they therefore use this inferential Heuristic -- it's
3 only used in the ███ logs, and Dr. Sadowski testified
4 it's not used any more, they've built a dashboard
5 infrastructure, but it's not something that's regularly
6 looked at or used.
7   So, it exists. We're happy to provide information.
8 We've already provided information. We've offered a
9 30(b)(6) witness on that topic. We've identified the
10 specific logs in which that field is written.
11   If those are sources that Plaintiffs select for
12 searching and the special master deems it appropriate, we
13 are happy to run the searches over those.
14   I think that would be the most efficient way to
15 proceed. We'll have to figure out if it requires publisher
16 notice. My hope is that it won't.
17   MR. MAO: Just to be clear --
18   SPECIAL MASTER BRUSH: Wait. I just heard -- wait
19 --
20   MR. MAO: Mr. Brush, if I may -- if I may
21 clarify something. Mr. Ansorge refers to them having
22 identified some of the ███ logs.
23   Our question, again, goes back to what she pointed
24 out -- right? -- that there's two parts, which is, one,
25 there has been no representation that that's actually

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1 exhaustive of where that field actually exits, and my main
2 question on that is which of the logs they've identified as
3 part of the special master process -- because those five
4 ███ logs were not identified as part of the special
5 master process -- but which five -- which of the special
6 master process identified logs actually contained that
7 field, like actually uses it, and then, secondly, which one
8 of those logs potentially, you know, could use it either
9 because it is in the schema or because of some other way in
10 which it could be used.
11   Those are different questions. And, you know, just
12 because they've identified five logs, all of which are
13 outside of the -- you know, were identified outside of the
14 special master process -- okay? -- does not mean that for
15 the special master process we don't need to finish up by
16 asking those two questions, and which you had pointed out.
17   MR. ANSORGE: And, Mr. Mao, I don't know what more
18 representation we can provide to you than a 30(b)(6)
19 witness. You noticed the topic in December.
20   We prepared the witness. They spoke to engineers.
21 They looked -- conducted code searches. You asked for
22 specific data. We provided that data.
23   Plaintiffs deposed Google as a corporate designee
24 on this topic. Dr. Sadowski testified on this topic. I
25 can't add or subtract from that testimony. That stands as

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1 it exists.
2   My concern here is how does any of this lead us to
3 actually having the next round of searches? We're -- we
4 appear to be finding ourselves --
5   MR. MAO: Right. So, let me -- let me answer
6 that.
7   MR. ANSORGE: -- in a hall of mirrors.
8   MR. MAO: Two seconds. I just need two
9 sentences. One, you could simply update the logs and this
10 schema produced to answer that question, and then, two, out
11 of that you can identify which of those logs and schemas
12 this field could've either been used or is already being
13 used. There, two sentences. There's your tangible. I'm
14 not trying to argue with you.
15   MR. ANSORGE: And, so, all that has happened under
16 oath. Dr. Sadowski testified on behalf of Google on a topic
17 where you were seeking this information -- you sought it in
18 December -- and that has been provided.
19   I'm sorry. I feel like I'm absolutely being
20 deposed here, Mr. Mao --
21 (Speaking simultaneously)
22   SPECIAL MASTER BRUSH: To do it successfully I
23 would (inaudible) that definition --
24   MR. ANSORGE: -- and I don't believe --
25   MR. MAO: I'm not deposing you.

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1   MR. ANSORGE: Okay. Well, in that case I
2 (inaudible) --
3   MR. MAO: (Interposing) I'm not saying that
4 she said under oath that she needs to go back to talk to
5 engineers to figure that out.
6   MR. ANSORGE: Well, then I think -- I would like
7 you to send us that specific quote and passage where she
8 said that she's not -- is not providing an answer.
9   Not only did she identify the specific log sources,
10 we put them on a piece of paper for you so that there'd be
11 no typo, so there'd be absolute clarity on which exist.
12   She explained when they were written and she
13 explained, most importantly, the logic by which they were
14 written, and that logic is one that we have discussed ad
15 infinitum, both before the special master and in other
16 processes, at least since July.
17   There's been 30(b)(b) corporate testimony about the
18 false positives, false negatives associated with the absence
19 of the "X" Klein data header.
20   MR. MAO: Well, look, we're not arguing the
21 merits of the case right now, we're simply trying to isolate
22 the data, the relevant data. Right?
23   My point is this popped up in the schema for two of
24 the ███ logs, and I'm simply asking you whether or not
25 you need to update the rest of the logs to either reflect

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1 that's similarly in there -- okay? -- or that it could be in
2 there, or something else. Like you've given no explanation
3 or logic to that.
4   And by the way, Dr. Sadowski's deposition,
5 actually, the incongruence is that she didn't point to
6 either of those two logs which ended up showing that field.
7   So how do I reconcile you saying that this field --
8 that the logs -- the five logs she identified is exhaustive
9 when she didn't even list the two additional logs that was
10 produced as part of the special master process which did use
11 that field?
12   MR. ANSORGE: Yeah.
13   MR. MAO: How do I reconcile that?
14   MR. ANSORGE: I think you reconcile that by
15 understanding what we've been trying to explain about protos
16 since October.
17   MS. GAO: Mr. Mao, let me try to explain this.
18 So, two of the ███ logs, as you see, have this field, but
19 they will always be written as false because that's the
20 default written -- default writing of these logs, because
21 they don't really have the capability to write in the logs.
22   So, even if you select the sources and we run the
23 searches, all of the results you will see will be false.
24   MR. MAO: So, I think you're wrong there, Ms.
25 Gao, because I think you used the word "capability," and

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1 that's not true. I mean, it clearly has the capability to
2 do that. And the two questions are, one --
3   SPECIAL MASTER BRUSH: Well, let me pause you right
4 there, Mr. Mao, because I think there's a slight -- it's not
5 a universal capability to try to report it on, it's not --
6 even the option's not (blip) in every data source. You
7 know, there's a nuance there.
8   MR. MAO: Right. And, Mr. Brush --
9   SPECIAL MASTER BRUSH: So, what -- I guess let's
10 close this out, because we're at time. So --
11 (Speaking simultaneously)
12   MR. MAO: I'm just trying to figure that out,
13 Mr. Brush.
14   SPECIAL MASTER BRUSH: No, no, no. I understand
15 that.
16   MR. MAO: Exactly what (inaudible).
17   SPECIAL MASTER BRUSH: Yeah. It sounds like there
18 was a lot of information that was provided around this
19 topic, and if there's gaps, by all means.
20   I mean, I'm not saying we don't, but you're not
21 being -- we're not being very productive here getting to the
22 bottom of that.
23   But, you know, are you asking -- and can we do this
24 as kind of an approach -- out of the additional -- out of
25 all the identified logs in the process, is it -- what would

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1 it take, Mr. Ansorge, for a person to identify the ones that
2 have the -- yeah.
3   So, I'm trying to get at if there's any way to see
4 if that field does exist in a normal course of business, or
5 what's the percentage -- is there anything to say, you know,
6 these logs were where this field is most likely to appear
7 out of the ones that have been identified? Is that -- or
8 has that already been done and can it just be provided?
9   MR. ANSORGE: It's been done. It would usually be
10 something that's very difficult to do because it would
11 require running of test IDs across all the logs and then
12 comparing them.
13   SPECIAL MASTER BRUSH: Sure.
14   MR. ANSORGE: In this case, we were fortunate that
15 it's been done and we had corporate testimony on it under
16 oath and the specific sources were identified, specific log
17 sources.
18   I just harken back to your email from yesterday,
19 sir, which said we're not gonna be opening up any more
20 doors, falling down any other routes of discovery, and my
21 concern is that each of these being used as a condition or
22 precedent for further searches. It won't actually get us
23 closer to finishing up the process.
24   SPECIAL MASTER BRUSH: Okay. This is where I was
25 going with all this, is -- yeah. Let -- if you can get it

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1 in writing -- because I feel like I'm -- you know, this is
2 not -- you know, we've been watching this argument go back
3 and forth for a while about this specific field, and I
4 understand there's -- the complexity is probably -- the
5 details were being lost.
6   But if you can articulate it well and in a concise
7 manner what you said about how it's been provided, have me
8 take a look at it and then I can make a further
9 determination.
10   Again, I'm not looking to opening up anything else,
11 I just think we need to get it a little bit more concise and
12 in writing as opposed to, you know, orally on Zoom
13 (inaudible) because I have seen some.
14   But if you can point to it specifically and
15 articulate it, I think we can close out this issue offline.
16   MR. MAO: Mr. Brush, this is a critical issue
17 that you're gonna see come up, so I would ask that we -- the
18 Brown plaintiffs also be copied on the same correspondence.
19 That way we have (inaudible).
20   SPECIAL MASTER BRUSH: (Interposing) Absolutely.
21 Oh, yes. No, no, no. It's not ex parte, it's -- it's --
22 because I wanna absorb it.
23   You know, you're certainly open to rebut in writing
24 on it and kind of get your sense of just -- but I think what
25 we want -- I'm gonna base this thing -- we're over time.

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1 I've heard what I need to hear orally on it. Let's get it
2 in writing and kinda close this down for the day.
3   MR. MAO: Yeah. And it's not -- it's not
4 without reason, Mr. Brush. Because I'm guessing, just given
5 the volume of traffic that went on last night, you probably
6 have not had a chance to look at the status of the
7 preservation plan discussion, but I think once you've had
8 the time to look at that you're gonna see that this is gonna
9 be germane and relevant to that issue, too.
10   And one of the issues that's gonna pop up on that
11 is this might be one of the elephants in the room as to why
12 we can't have a fulsome discussion about when log retention
13 and preservation periods should start.
14   But, you know, that might be the better subject of
15 a debate for later on.
16   SPECIAL MASTER BRUSH: Oh, that's right. We will
17 debate on the preservation. You guys totally missed the
18 landing on that one, so I'll -- you know, we're gonna have
19 to take that as a separate thing and close that down,
20 because that should've been done two weeks ago.
21   MR. SCHAPIRO: And, Mr. Brush, we hear you on that,
22 and -- I'll refrain -- so, if you have any questions about
23 the preservation plan as we've described it or submitted it,
24 we -- you know, over the course of the next whatever it is,
25 12 or 24 hours, when you're looking at and assessing them,

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1 we would, of course, be happy to answer any of them in
2 whatever forum or format you deem appropriate.
3   SPECIAL MASTER BRUSH: Sounds good. Thank you very
4 much.
5   MR. SCHAPIRO: Thank you.
6   SPECIAL MASTER BRUSH: All right. Thanks,
7 everybody.
8 [END OF HEARING]
9 [END OF TRANSCRIPT]

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 1                CERTIFICATION PAGE

 2

 3      I, Kimberly H. Nolan, Transcriptionist,

 4  do hereby certify that this transcript

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EXHIBIT 4

Sealed in Entirety

EXHIBIT 5

Sealed in Entirety

EXHIBIT 6

Redacted Version of Document Sought to be Sealed

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18   **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION
19

20   Case No. 4:20-cv-03664-YGR-SVK

21   CHASOM BROWN, WILLIAM BYATT,
JEREMY DAVIS, CHRISTOPHER
22   CASTILLO, and MONIQUE TRUJILLO   **STIPULATION REGARDING GOOGLE'S**
individually and on behalf of all similarly   ███████████████████████
23   situated,   **FIELD**

24   Plaintiffs,   Judge: Honorable Yvonne Gonzalez Rogers

25   v.

26

27   GOOGLE LLC,

        Defendant.

28

Pursuant to Civil Local Rule 7-12, this joint stipulation is entered into between Plaintiffs and Defendant Google LLC ("Google"), collectively referred to as the "Parties."

WHEREAS, on March 4, 2022, Plaintiffs served a Rule 30(b)(6) deposition notice seeking testimony about the following topic:

> Google's development, implementation, and use of any bit or field containing the word "incognito" or whose name has ever contained the word "incognito," or whose function was intended to detect Incognito, including the following: ███████████████ , ████████████████ , ████████████ , and ███████████████ . This Topic includes the reasons why Google developed, implemented, and used any such bit or field. This Topic also includes the log or traffic sources as well as the design (including any changes in design) used to determine the bit or field, as well as any logs or data sources where such a bit or field is used and how it is used.

WHEREAS, Google has offered to designate portions of Mr. Bert Leung's March 4, 2022 deposition testimony as Rule 30(b)(6) testimony in lieu of producing a witness to provide Rule 30(b)(6) testimony about the ███████████████ field;

WHEREAS, pursuant to the Court's First Order on March 11, 2022 Joint Discovery Dispute Chart (Dkt. 487), Plaintiffs submitted a proposed factual stipulation concerning the ███████████████ field to the court room deputy on March 15, 2022.

WHEREAS, on March 18, 2022, the Court ruled that "Topics 1-6 [in Plaintiffs' proposed factual stipulation] are appropriate and can proceed either by stipulation or further deposition. Google to notify Plaintiffs as to which option it selected by 3/18/2022 … Topics 7-12 are stricken as beyond the scope of this line of inquiry." Dkt. 505-1 at 1.

WHEREAS, on March 18, 2022, Google notified Plaintiffs it agreed to proceed by stipulation.

NOW THEREFORE, the Parties stipulate to the following facts, which shall be taken as established for all purposes throughout this case.

1. In May 2020, Google employees Chris Liao, Bert Leung, and Mandy Liu began developing a simple heuristic-based method to approximately infer Chrome Incognito traffic using existing signals in ad requests, and a boolean field to record the outcome of this heuristic-based method.

2.   On or about March 11, 2021, Google employees drafted a logging proto to implement a boolean field called ██ that recorded the outcome of the aforementioned heuristic-based method.

3.   The following table identifies all Google logs where the ██ boolean field has been implemented, including Zwieback, GAIA, and Biscotti logs, as well as the date when the ██ boolean field was logged in each data source.

Log containing ██████████	Date source began logging data
████████████████	June 17, 2021
████████████████████	July 4, 2021
██████████████	July 4, 2021
████████████████████	July 4, 2021
████████████████████	June 17, 2021
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████████████████████	July 4, 2021
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██████████████	July 4, 2021

███████████████████	July 4, 2021
████████████████████	July 4, 2021
████████████	June 17, 2021
████████████	June 17, 2021
███████████████	June 17, 2021
██████████████	June 17, 2021

4.   Bert   Leung   implemented   the
█████████████████████████████████████
boolean field into the data sources and logs listed above in Paragraph 4.

5.   The Cookie Monitoring Dashboard for Search and Display Ad Serving that uses the
█████████████████████████████████████
boolean field was officially launched on March 2, 2022.

DATED: April 11, 2022

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Case No. 4:20-cv-03664-YGR-SVK
STIPULATION REGARDING MAYBE CHROME INCOGNITO FIELD

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[PROPOSED] ORDE

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: _____, 2022   _____

Honorable Susan van Keulen
United States Magistrate Judge

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ATTESTATION OF CONCURRENCE

I am the ECF user whose ID and password are being used to file this STIPULATION Pursuant to Civil L.R. 5-1(i)(3), I hereby attest that each of the signatories identified above has concurred in the filing of this document.

_/s/_
_____